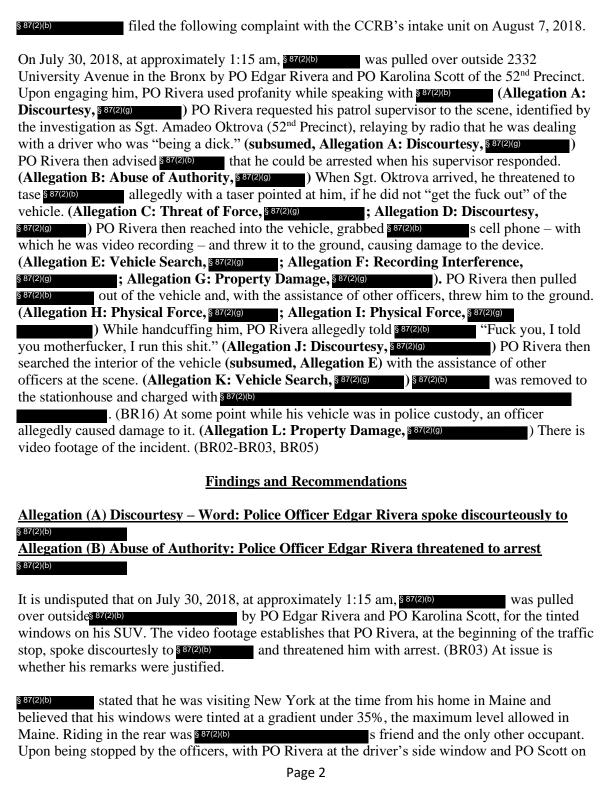
CCRB INVESTIGATIVE RECOMMENDATION

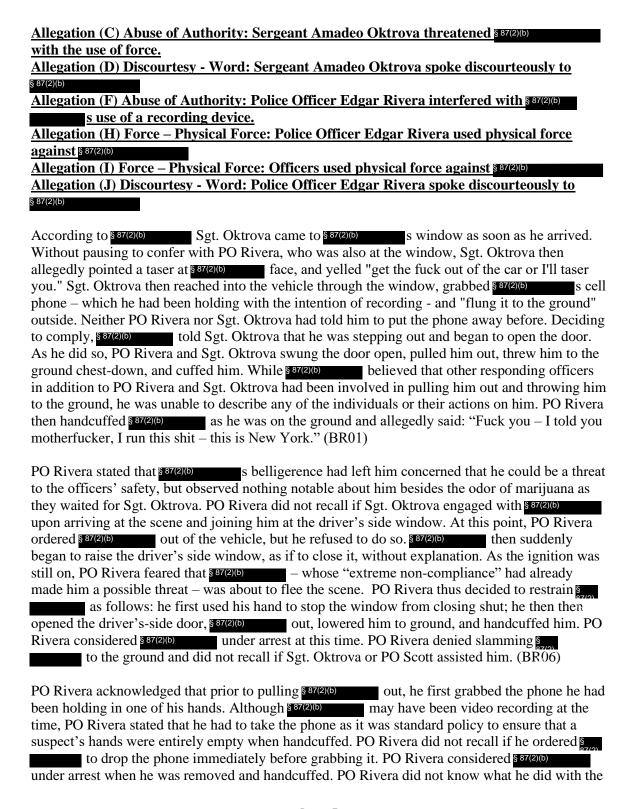
Investigator:		Team:		CCRB Case #:	☑ For	rce	$\overline{\mathbf{V}}$	Discourt.	☐ U.S.
Santosh Prakash		Squad #8		201806414	☑ Ab	use		O.L.	☐ Injury
Incident Date(s)		Location of	of Inciden	t:	Prec	inct:	18 N	Mo. SOL	EO SOL
Monday, 07/30/2018 1:15 AM		In front of	§ 87(2)(b)		5	2	1/3	30/2020	1/30/2020
Date/Time CV Reported		CV Repor	ted At:	How CV Reported	l: Dat	e/Time	Recei	ved at CCI	RB
Tue, 08/07/2018 12:26 PM		CCRB		Phone	Tue	e, 08/07/	/2018	12:26 PM	
Complainant/Victim	Туре	I I	Home Ad	dress					
Witness(es)		H	Home Ad	dress					
		•							
Subject Officer(s)	Shield	7	ΓaxID	Command					
1. POM Edgar Rivera	05576	9	955381	052 PCT					
2. SGT Amadeo Oktrova	01914	9	949413	052 PCT					
3. An officer									
4. Officers									
Witness Officer(s)	Shield N	No T	ax No	Cmd Name					
1. POF Karolina Scott	00483	90	61552	052 PCT					
Officer(s)	Allegati	on				Inves	stigat	or Recon	nmendation
A.POM Edgar Rivera		tesy: Police eously to § 87		dgar Rivera spoke					
B.POM Edgar Rivera	Abuse: I § 87(2)(b)	Police Office	er Edgar I	Rivera threatened to arr	rest				
C.SGT Amadeo Oktrova	Abuse: S against §	Sergeant Am 87(2)(b)	nadeo Okt	rova threatened to use	force				
D.SGT Amadeo Oktrova		tesy: Sergea eously to ^{§ 87}		eo Oktrova spoke					
E.POM Edgar Rivera		Abuse: Police Officer Edgar Rivera searched the vehicle in which §87(2)(b) was an occupant.							
F.POM Edgar Rivera	Abuse: I	Abuse: Police Officer Edgar Rivera interfered with suse of a recording device.							
G.POM Edgar Rivera	Abuse: I	Abuse: Police officer Edgar Rivera damaged §87(2)(b) s cell phone.							
H.POM Edgar Rivera		Force: Police Officer Edgar Rivera used physical force against \$ 37(2)(b)							
I. Officers	Force: C	Officers used	l physical	force against § 87(2)(b)					
J.POM Edgar Rivera		tesy: Police eously to § 87		dgar Rivera spoke					
K. Officers	Abuse: (Officers sear		vehicle in which § 87(2)(t	b)				
L. An officer	Abusas	An officer da	amaged \$	s veh	icle				

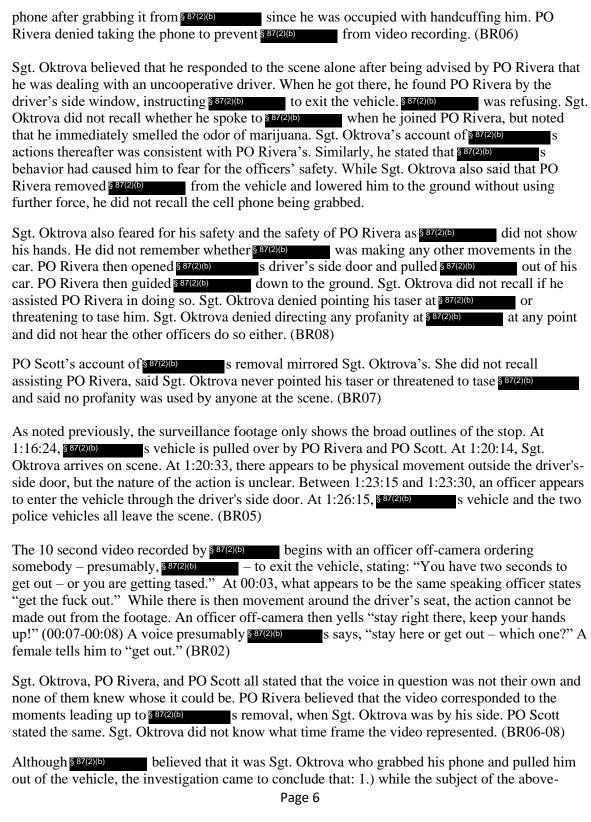
Case Summary



tried to explain that he was visiting from another state. But PO Rivera allegedly asked for his driver's license and registration and told him: "I don't give a fuck where you are from. This is New York, I can pull you over if I want to and there's nothing you can do." \$\frac{827(2)(0)}{2}\$ in turn was offended by the profanity. Deciding that he was not going to produce his documents as requested, he asked PO Rivera to call his supervisor to the scene and told him he was going to be video recording the encounter on his cell phone. PO Rivera said "go ahead" and told \$\frac{827(2)(0)}{2}\$ that he would go to jail if his supervisor came to the scene, for refusing to provide his documents. PO Rivera then radioed for his supervisor, at which time he remarked that \$\frac{827(2)(0)}{2}\$ was "being a dick." PO Rivera stayed by his window as they waited for the supervisor, identified by the investigation as Sgt. Amadeo Oktrova, without attempting to engage him any further. While PO Rivera did not question him about drugs or weapons, \$\frac{87(2)(0)}{2}\$ acknowledged that he was carrying medical marijuana in the vehicle — purchased legally in Maine at a state-sanctioned dispensary — packaged in multiple pharmacy vials which were stored inside the center console. \$\frac{837(2)(0)}{2}\$ denied smoking marijuana in the vehicle and denied consuming any drugs or alcohol that night. (BR01)
did not cooperate with the investigation's interview attempts.
PO Rivera stated that he and PO Scott stopped \$87(2)(b) because he was driving with heavily tinted windows and an obstructed license plate. Once at the driver's side door, he asked to provide his license and registration but \$87(2)(b) refused and became verbally combative, even after PO Rivera repeatedly ordered him to comply. When \$87(2)(b) then asked to speak with a supervisor, PO Rivera requested Sgt. Oktrova to the scene. While PO Rivera detected the odor of marijuana emanating from the interior of the vehicle early on during the stop, he had no opportunity to question \$87(2)(b) about it as he was too uncooperative. PO Rivera did not recall threatening to arrest \$87(2)(b) PO Rivera denied telling him he could pull him over at will, and denied using any profanity against him at any point during the stop. (BR06)
PO Scott's statements regarding this period of the stop were consistent with PO Rivera's. (BR07) Sgt. Oktrova arrived shortly after the interactions occurred. (BR08)
The investigation obtained video footage from an exterior surveillance camera installed on the façade of (BR05) While the camera captured the vehicle stop in its entirety, individuals and actions were largely indistinguishable due to the poor resolution, the low-light setting, and the glare of police turret lights. (BR05)
first provided the investigation with a 10 second video clip, recorded by from the rear seat, showing the moments leading up to \$\frac{87(2)(b)}{2}\$ s removal from the vehicle (BR02, discussed further in the following page). A second video recording, 2 minutes and 17 seconds long and also recorded by \$\frac{87(2)(b)}{2}\$ from the rear, was obtained after the involved officers were interviewed. (BR03)

asking PO Rivera, seen just outside the driver's side door, to call his supervisor. PO Rivera states: "That's not a problem but you are going to have to give me your license." Between 00:15 and 00:30, \$\frac{\text{Set/200}}{\text{D}}\) proceeds to argue with PO Rivera about how his tints are legal outside the state. Between 00:30-00:39, PO Rivera appears to be communicating over radio, stating: "Can you come to Fordham and Uni'? Yeah – I got a car stop, this dude is being a dick." Between 00:46 -00:53, PO Rivera states: "When the boss comes, it is going to be worse for you – you can either give me the information now or you are going to be going back to the precinct – I promise you are going to be coming back to the precinct." responds: I'm not giving you anything right now." At 00:57, \$\frac{\text{Set/200}}{\text{Set/200}}\] states: "I'm going to start recording." PO Rivera responds: "That's fine. But I'm tell you now, since you are refusing to give you license" \$\frac{\text{Set/200}}{\text{Set/200}}\] sys: "I'm not refusing to give you anythingI have my license – I feel like you are trying to pull me over because you are trying to be nosy" PO Rivera states: "Whenever you are ready to provide that license you let me know" \$\frac{\text{Set/200}}{\text{Set/200}}\] s incense plate. (1:48) At 1:59, PO Rivera again states: "When you are ready to hand me" \$\frac{\text{Set/200}}{\text{Set/200}}\] s incense plate. (1:48) At 1:59, PO Rivera again states: "When you are ready to hand me" \$\frac{\text{Set/200}}{\text{Set/200}}\] sincense plate. (1:48) At 1:59, PO Rivera again states: "When you are ready to hand me" \$\frac{\text{Set/200}}{\text{Set/200}}\] sincense plate. (1:48) At 1:59, PO Rivera again states: "When you are coming back to the precinct when the boss gets here. I promise you, I promise you are coming back." (1:59-2:15) The video then ends abruptly. (BR03)
While Patrol Guide (P.G.) procedure 203-09 requires officers to be courteous and respectful when interacting with civilians, an officer's use of profanity during certain types of encounters – such as those involving physical confrontations or violence – may sometimes be "excusable" by the exigencies of the moment. (<i>DCT Case No. 2017-17276</i> ; BR10, BR14)
§ 87(2)(g)
§ 87(2)(g)





noted discourtesy ("get the fuck out") and taser threat was Sgt. Oktrova by the preponderance of the evidence; 2.) it was PO Rivera – per his own admissions – who then seized the phone and removed § 87(2)(b) outside.

During a traffic stop, an officer may order any occupants of a vehicle to exit – a "de minimis intrusion" in the interest of the officer's safety. (Pennsylvania v Mimms, 434 US 106, 111 [1977]; BR11) A "potentially menacing set of circumstances…in the context of a car stop" – if objectively indicative of a threat to officer safety – may justify "seizure and temporary detention as a proper precautionary measure…" (People v Livigni, 88 AD2d 386, 389 [2d Dept 1982]; BR12)

NYPD Patrol Guide (P.G.) Procedure 221-01 requires that use of force must be objectively reasonable under the circumstances. (BR13)

While Patrol Guide (P.G.) procedure 203-09 requires officers to be courteous and respectful when interacting with civilians, an officer's use of profanity during certain types of encounters – such as those involving physical confrontations or violence – may sometimes be "excusable" by the exigencies of the moment. (DCT Case No. 2017-17276; BR10, BR14)

Under NYPD Legal Bureau guidelines, an observer's right to record police activity is not absolute and does not extend to the individual who is the subject of police action, whether it involves a detention or arrest. (BR15)

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§ 87(2)(g)
Allegation (E) Abuse of Authority: Police Officer Edgar Rivera searched the vehicle in which sar(2)(b) was an occupant. Allegation (K) Abuse of Authority: Officers searched the vehicle in which sar(2)(b)
was an occupant.
It is undisputed that PO Rivera searched the interior of the vehicle after \$87(2)(b) was restrained.
stated that he observed other responding officers search the vehicle as well but could not describe them. (BR01)
PO Rivera acknowledged searching the vehicle as alleged and said he did so because of the odor of marijuana he had detected. The search yielded several pharmacy vials containing marijuana, some in a bag and some loosely dispersed through the length of the vehicle. A switch-blade was also recovered from one of \$87(2)(6) s pockets. (BR06)
PO Scott and Sgt. Oktrova denied searching §87(2)(b) s vehicle. (BR07-BR08)
The arrest report shows that \$87(2)(b) was ultimately charged with criminal possession of marijuana, criminal possession of a weapon, and various VTL violations including moving and equipment VTL violations including improper display of license plate, improperly tinted windows, and aggravated unlicensed operation of a vehicle. (BR18)
When an officer breaches the plane of a vehicle's doorway, said conduct constitutes a search of the vehicle. (People v Hernandez, 238 AD2d 131, 132 [1st Dept 1997]; BR16) The odor of

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marijuana from a vehicle will justify the search of the vehicle and its occupants. (People v. Chestnut, 36 N.Y.2d 971 [1975]; BR17)
§ 87(2)(g)
Allegation (G) Abuse of Authority: Police Officer Edgar Rivera damaged seell phone. Allegation (L) Abuse of Authority: An officer damaged ser(2)(b) s vehicle.
alleged that his cell phone was damaged because PO Rivera threw it to the ground after grabbing it from him. (BR01) When the phone was returned to him after his arraignment the following day, he found that its' screen display was cracked. The phone in question was photographed by the investigation at the time of \$87(2)(b) s interview. While the phone's screen and frame are clearly damaged, \$87(2)(b) did not provide any images of the phone taken before the incident date, or any other documentation to reflect its prior condition. (BR04)
According to \$87(2)(b) he authorized his vehicle to be released to \$87(2)(b) who was released from custody with a summons several hours after the incident. When \$87(2)(b) retrieved his vehicle from \$87(2)(b) he found the passenger door and front bumper scratched (photographs he took at an unknown date are BR04). While he suspected that officers were responsible for the scratches, he could not state why he believed so, beyond stating that \$87(2)(b) could not have caused the damage. \$87(2)(b) did not witness the officers cause any damage to the vehicle. (BR01)
PO Rivera did not know what he did with the phone after grabbing it from street as he was in the process of pulling him out of the vehicle and handcuffing him. As he could not have been holding the phone and handcuffing at the same time, PO Rivera acknowledged that he may have dropped the phone but denied doing so intentionally and denied throwing it to the ground. PO Rivera believed that the phone was ultimately picked up by another officer and vouchered but he did not know for sure and was not aware of any damage caused to it during the incident. (BR06)
PO Rivera, PO Scott, and Sgt. Oktrova all denied doing anything to cause damage to the vehicle. (BR06-BR08)
Neither cell phone nor vehicle were invoiced with the other evidence and property seized during the arrest. (BR19)
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	Civilian and Officer CCRB Histories
§ 87	(2)(b)
PC	
	Rivera has been a member of service for five years and has been a subject in five CCR
co	mplaints and 11 allegations, four of which were substantiated.
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Mediation, Civil and Criminal Histories

 Due to the arrest, this claim was not suitable for mediation. The results of a Notice of Claim query, filed with the New York City Office of the Comptroller on February 12, 2019, are still pending. §87(2)(5) 				
	12, 2017, 410	y sum pending.		
Squad No.: 08				
Investigator:	Signature	Print Title & Name	Date	
Squad Leader:				
	Signature	Print Title & Name	Date	

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